

1
2
3
4
5
6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**
8

9 SAMUEL ISAAC MARQUEZ,

10 *Petitioner,*

11 vs.
12

13 E.K. MCDANIELS, *et al.*

14 *Respondents.*
15

3:08-cv-00647-LRH-VPC

ORDER

16 This represented habeas matter under 28 U.S.C. § 2254 comes before the Court on petitioner's
17 motion (#34) to reopen the case, which is not opposed (#36).

18 IT THEREFORE IS ORDERED that petitioner's motion (#34) to reopen the case is GRANTED,
19 the stay is LIFTED, and this matter hereby is REOPENED.

20 IT FURTHER IS ORDERED that, within **sixty (60) days** of entry of this order, respondents
21 shall file a response to the amended petition (#19). **Any response filed shall comply with the**
22 **remaining provisions below, which are tailored to this particular case based upon the Court's**
23 **screening of the matter and which are entered pursuant to Habeas Rule 4.**

24 IT FURTHER IS ORDERED that any procedural defenses raised by respondents in this case
25 shall be raised together in a single consolidated motion to dismiss. In other words, the Court does not
26 wish to address any procedural defenses raised herein either in *seriatum* fashion in multiple successive
27 motions to dismiss or embedded in the answer. Procedural defenses omitted from such motion to
28 dismiss will be subject to potential waiver. Respondents shall not file a response in this case that

1 consolidates their procedural defenses, if any, with their response on the merits, except pursuant to 28
2 U.S.C. § 2254(b)(2) as to any unexhausted claims clearly lacking merit. If respondents do seek
3 dismissal of unexhausted claims under § 2254(b)(2): (a) they shall do so within the single motion to
4 dismiss **not** in the answer; and (b) they shall specifically direct their argument to the standard for
5 dismissal under § 2254(b)(2) set forth in *Cassett v. Stewart*, 406 F.3d 614, 623-24 (9th Cir. 2005).

6 IT FURTHER IS ORDERED that, in any answer filed on the merits, respondents shall
7 specifically cite to and address the applicable state court written decision and state court record
8 materials, if any, regarding each claim within the response as to that claim.

9 IT FURTHER IS ORDERED that petitioner shall have **thirty (30) days** from service of the
10 response within which to file an opposition or reply as applicable.

11 **The hard copy of any additional exhibits submitted shall be forwarded for this case to the**
12 **staff attorneys in Las Vegas.**

13 DATED this 28th day of January, 2013.



14
15
16
17 LARRY R. HICKS
UNITED STATES DISTRICT JUDGE
18
19
20
21
22
23
24
25
26
27
28